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EXAMINER

LAZARO, DAVID R

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/956,989	Applicant(s) PIPONIU ET AL.	
	Examiner David Lazaro	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-22, 24, 25 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-22, 24, 25 and 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed 09/14/2006.
2. Claims 12, 23 and 26 are canceled.
3. Claims 1-11, 13-22, 24, 25 and 27-31 are pending in this office action.

Response to Amendment

4. Applicant's arguments filed 09/14/2006 have been fully considered but they are not persuasive. See Response to Arguments. Accordingly, the grounds of rejection as presented in the 06/21/2006 office action, are respectfully maintained.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1, 6-8, 11, 13, 16, 19-22, 27 and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,047,051 by Ginzboorg et al. (Ginzboorg) in view of U.S. Patent 6,389,537 by Davis et al. (Davis).

7. With respect to Claim 1, Ginzboorg teaches a method for providing a piece of content to a subscriber terminal from a content server, wherein the provision of the content from the content server to the subscriber terminal is controlled by a proxy, and said control of the content provision comprises the following steps:

- receiving in the proxy a content request for providing the content (Col. 5 lines 43 - Col. 6 line 2),

- determining, by the proxy, whether or not the content is chargeable content, wherein the determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free to end users connected to a network (Col. 6 lines 3-8; Col. 12, lines 42-52; Col. 10 line 21-29; and Col. 13 lines 15-24);

- determining by means of the proxy a billing address for the chargeable content (Col. 5 lines 56-65 and Col. 7 lines 47-59)

- providing the content corresponding to the content request under the control of the proxy from the content server to the subscriber terminal (Col. 6 lines 55-63), and

- generating billing information related to the chargeable content (Col. 6 lines 3-29 and Col. 7 lines 36-59) wherein generating billing information includes accessing a subscriber terminal profile (Col. 5 line 19-31 and Col. 5 line 43 - Col. 6 line 63).

Ginzboorg does not explicitly disclose including a prepaid amount provided by an end user of the subscriber terminal. Davis teaches the use of a prepaid amount provided by an end user of a subscriber terminal (Col. 1 lines 24-36). This is a known purchasing scheme in the provisioning of content to users (Col. 1 lines 10-12 and 24-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg and modify it as indicated by Davis such that the method further comprises wherein the subscriber

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terminal profile includes a prepaid amount provided by an end user of the subscriber terminal. One would be motivated to have this, as it is a simple and known purchasing scheme for use in provisioning of content to users (In Davis: Col. 1 lines 10-12 and 24-36).

8. With respect to Claim 6, Ginzboorg further teaches wherein the subscriber identity of the subscriber terminal is hidden from the content server (In Ginzboorg: Col. 5 line 52 - Col 6 line 2).

9. With respect to Claim 7, Ginzboorg further teaches wherein the generation of the billing information related to the content comprises the step of maintaining billing criteria in a database functionally connected to the proxy (In Ginzboorg: Col. 6 lines 3-29).

10. With respect to Claim 8, Ginzboorg further teaches wherein the billing criteria comprise the payer of the content (In Ginzboorg: Col. 6 lines 3-29 and Fig. 4).

11. With respect to Claim 11, Ginzboorg further teaches wherein the billing criteria comprise information on whether the content in question belongs to a group of content segments with a special price (In Ginzboorg: Col. 12 lines 42-53).

12. With respect to Claim 13, Ginzboorg further teaches wherein determining the billing address comprises: allocating an IP address to the subscriber terminal in an access network (In Ginzboorg: Col. 5 lines 52-62 - Note: The socket address of a TCP connection would contain the IP address allocated to the subscriber); receiving, in the proxy, the IP address allocated to the subscriber terminal (In Ginzboorg: Col. 5 lines 52-62); determining, in the proxy, a subscriber identity based on the IP address and

correlating it to the billing address (In Ginzboorg: Col. 5 lines 52-65 and Col. 7 lines 47-59).

13. With respect to Claim 16, Ginzboorg further teaches if the content is part of a group of content segments, then the subscriber terminal is entitled to use a portion of the group at a lower price or for free (In Ginzboorg: Col. 13 lines 15-24 and Col. 10 lines 21-29).

14. With respect to Claim 19, Ginzboorg further teaches wherein generating billing information further includes billing the subscriber for content delivered by the content server to the subscriber terminal (In Ginzboorg: Col. 5 line 43 - Col. 6 line 63 describes the overall process).

15. With respect to Claim 20, Ginzboorg further teaches the proxy is configured to identify one or more pieces of content that are included in an agreement between an operator of the content server and an operator of the proxy (In Ginzboorg: Col. 5 lines 1-19 and lines 52-64).

16. With respect to Claim 21, Ginzboorg further teaches the proxy does not forward the content request to the content server until the proxy identifies whether or not selected content is included in an agreement between an operator of the content server and an operator of the proxy (In Ginzboorg: Col. 5 lines 1-19 and lines 52-64 and Col. 6 lines 55-63).

17. With respect to Claim 22, Ginzboorg further teaches wherein the proxy directly forwards the content request to the content server after until the proxy identifies that selected content is not included in an agreement between an operator of the content

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server and an operator of the proxy (In Ginzboorg: Col. 5 lines 1-19 and lines 52-64 and Col. 6 lines 55-63).

18. With respect to Claim 27, Ginzboorg further teaches wherein the content is not billed at one time because it corresponds to streaming content (In Ginzboorg: Col. 10 lines 26-29).

19. With respect to Claim 28, Ginzboorg further teaches wherein a price for the content is determined based on a time at which the content is requested (In Ginzboorg: Col. 12 lines 42-51).

20. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,905,736 by Ronen et al. (Ronen).

21. With respect to Claim 2, Ginzboorg in view of Davis teaches all the limitations of Claim 1, and further teaches the subscriber terminal is located in an access network in which the subscriber terminal is addressed by an access network subscriber identity (Col. 4 lines 43-51), and the content server is located in a service network in which it is addressed by an IP address (In Ginzboorg: Col. 4 lines 37-42), and wherein the determination of the billing address comprises the following steps: allocating an IP address to the subscriber terminal in an access network. (In Ginzboorg: Col. 5 lines 52-62 - Note: The socket address of a TCP connection would contain the IP address allocated to the subscriber); receiving, in the proxy, the IP address allocated to the subscriber terminal (In Ginzboorg: Col. 5 lines 52-62); determining, in the proxy, a

subscriber identity based on the IP address and correlating it to the billing address (In Ginzboorg: Col. 5 lines 52-65 and Col. 7 lines 47-59).

Ginzboorg in view of Davis does not explicitly teach the determined subscriber identity is the access network subscriber identity. Ronen teaches the determination of a subscriber identity that is an access network subscriber identity based on an IP address allocated to the subscriber identity and using it to determine the billing address (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51 - essentially the correlation of the ANI with the IP address can be used to determine the billing). The use of the access network subscriber identity allows for a casual user to make use of the billing system without an explicit pre-configuration/registration with the billing system (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Ronen such that the method further comprises allocating an IP address to the subscriber identity in the access network or at its edge; receiving, in the proxy, the IP address allocated to the subscriber identity; determining in the proxy on the basis of the received IP address the subscriber identity of the subscriber terminal and using it to determine the billing address. One would be motivated to have this, as there is need for providing a convenient method for billing of services through different providers, particularly for those using the services on a casual or infrequent basis (In Ronen: Col. 1 lines 21-38, Col. 1 line 65 - Col. 2 line 2, and Col. 2 lines 31-46).

22. With respect to Claim 3, Ginzboorg further teaches wherein the determination of the subscriber identity on the basis of the received IP address comprises an inquiry to a database in the proxy (In Ginzboorg: Col. 5 line 52 - Col 6 line 2) *and* (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51).

23. With respect to Claim 4, Ginzboorg further teaches wherein the determination of the subscriber identity on the basis of the received IP address comprises an inquiry to the access network (In Ginzboorg: Col. 5 line 52 - Col 6 line 2) *and* (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51).

24. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,956,391 by Melen et al. (Melen).

25. With respect to Claim 5, Ginzboorg teaches all the limitations of Claim 1 and further teaches the forming of bills by using known methods (In Ginzboorg: Col. 7 lines 50-59).

Ginzboorg in view of Davis does not explicitly disclose wherein the billing information related to the content service is sent to the access network to be combined with the billing information of the access network. Melen teaches a method where billing information related to content services is sent to the access network to be combined with the billing information of the access network (Col. 3 line 63 - Col. 4 line 10, and Col. 8 line 50 - Col. 9 line 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and

modify it as indicated by Melen such that the method further comprises wherein said billing information related to the content is sent to the access network to be combined with billing information of the access network. One would be motivated to have this as it improves the reliability of ordering content services (Col. 3 lines 50-60 of Melen).

26. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,970,477 by Roden (Roden).

27. With respect to Claim 9, Ginzboorg in view of Davis teaches all the limitations of Claim 1. Ginzboorg in view of Davis does not explicitly disclose that when a content service provider pays for the content service, the provider can also pay for telecommunication costs between the subscriber terminal and proxy. Roden teaches that when a when a content provider pays for the content, the provider can also pay for telecommunication costs between the subscriber terminal and proxy such that the use of the content is free of charge to the subscriber (Col. 7 lines 9-17, Col. 8 lines 43-57 and Col. 9 lines 7-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Roden such that the method further comprises wherein if the content provider pays for the content, the content provider pays for telecommunications costs between the subscriber terminal and the proxy, in which case the use of the content is completely free of charge to the subscriber. One would be motivated to have

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this as there is need for flexible methods for allocating costs associated with Internet access (Col. 4 lines 32-40 of Roden).

28. Claims 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent Application Publication 2002/0059114 by Cockrill et al (Cockrill).

29. With respect to Claim 10, Ginzboorg in view of Davis teaches all the limitations of Claim 1 but does not explicitly disclose information on whether the subscriber has been billed for the same content, in which case the following uses of the same content will be billed according to a lower tariff or not at all. Cockrill teaches information to determine whether the subscriber has been billed for the same content, in which case the following uses of the same content will be billed according to a lower tariff or not at all (Page 7 [0071], particularly step 807).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method of Ginzboorg in view of Davis and modify it as indicated by Cockrill such that the method further comprises wherein the billing criteria comprise information on whether the subscriber in question has already been billed for the same content, in which case the following uses of the same content will be billed according to a lower tariff or not at all. One would be motivated to have this as it facilitates the purchase of content and management of purchased content (Page 2 [0015] and [0016] of Cockrill).

30. With respect to Claim 14, Ginzboorg in view of Davis teaches all the limitations of Claim 1 but does not explicitly disclose billing information is generated based on billing criteria that includes whether or not the subscriber terminal has previously been billed for the same content. Cockrill teaches information to determine whether the subscriber has been billed for the same content, in which case the following uses of the same content will be billed accordingly (Page 7 [0071], particularly step 807).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method of Ginzboorg in view of Davis and modify it as indicated by Cockrill such that the method further comprises wherein the billing information is generated based on billing criteria that includes whether or not the subscriber terminal has previously been billed for the same content. One would be motivated to have this as it facilitates the purchase of content and management of purchased content (Page 2 [0015] and [0016] of Cockrill).

31. With respect to Claim 15, Ginzboor teaches all the limitations of Claim 1 but does not explicitly disclose billing information is generated based on billing criteria that includes whether or not the content is a part of a group of content segments that are offered at a special price. Cockrill teaches information to determine whether the subscriber has been billed for the same content, in which case the following uses of the same content will be offered according to a special price (Page 7 [0071], particularly step 807).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method of Ginzboorg in view of Davis and modify it as

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indicated by Cockrill such that the method further comprises wherein the billing information is generated based on billing criteria that includes whether or not the content is a part of a group of content segments that are offered at a special price. One would be motivated to have this as it facilitates the purchase of content and management of purchased content (Page 2 [0015] and [0016] of Cockrill).

32. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,852,812 by Reeder (Reeder).

33. With respect to Claim 17, Ginzboorg in view of Davis teaches all the limitations of Claim 1 but does not explicitly disclose performing, by the proxy, one or more currency conversions in cases where currencies used in an access network, to which the subscriber terminal is part of, and a service network, which can couple the proxy and the content server, are different. Reeder teaches that currencies in one network can be different than currencies in another network from which content is being provided (Col. 6 lines 55-65). To remedy this, Reeder teaches the use of currency conversion for a billing system in such a situation (Col. 6 lines 55-65 and Col. 3 lines 16-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Reeder such that the method further comprises performing, by the proxy, one or more currency conversions in cases where currencies used in an access network, to which the subscriber terminal is part of, and a service network, which can couple the proxy and the content server, are different. One would be

motivated to have this, as there is need for addressing currency conversion in computer systems involved in networks with different associated currencies (In Reeder: Col. 1 lines 45-57 and Col. 6 lines 55-65).

34. Claims 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,778,189 by Kimura et al. (Kimura).

35. With respect to Claim 18, Ginzboorg in view of Davis teaches all the limitations of Claim 1 but does not explicitly disclose performing, by the proxy, one or more protocol conversions in cases where protocols used in an access network, to which the subscriber terminal is part of, and a service network, which can couple the proxy and the content server, are different. Kimura teaches that protocols in one network can be different than protocols in another network from which content is being provided (Col. 2 lines 45-53). To remedy this, Kimura teaches the use of protocol conversion for a communication system to allow for proper communications between networks in such a situation (Col. 2 lines 45-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Kimura such that the method further comprises performing, by the proxy, one or more protocol conversions in cases where protocols used in an access network, to which the subscriber terminal is part of, and a service network, which can couple the proxy and the content server, are different. One would be

motivated to have this, as there is need for being able to communicate between nodes located in disparate networks (In Kimura: (Col. 1 lines 12-19 and Col. 2 lines 45-53).

36. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Davis and U.S. Patent 5,319,454 by Schutte (Schutte).

37. With respect to Claim 24, Ginzboorg in view of Davis teaches all the limitations of Claim 23 but does not explicitly disclose including a maximum amount for unbilled content that is reflected by an agreement between an end user of the subscriber terminal and an operator of the content server or an operator of the proxy. Schutte teaches a maximum amount for unbilled content to limit the obligation of the subscriber in terms of billing (Col. 6 lines 30-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Schutte such that the method further comprises wherein the subscriber terminal profile including a maximum amount for unbilled content that is reflected by an agreement between an end user of the subscriber terminal and an operator of the content server or an operator of the proxy. One would be motivated to have this, as it is desirable to have a maximum amount for unbilled content (In Schutte: Col. 6 lines 30-34).

38. With respect to Claim 25, Ginzboorg in view of Davis and Schutte teaches all the limitations of Claim 24 and further teaches wherein the proxy does not fulfill content

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requests if the maximum amount for unbilled content has been reached (In Schutte: Col. 6 lines 30-34).

39. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg in view of Ronen.

40. With respect to Claim 29, Ginzboorg teaches a proxy system for providing content service, the apparatus comprising;

a router component in communication with a subscriber terminal through an access network, the router component operable to receive a request for content service from the subscriber terminal and to determine if the content service is chargeable (In Ginzboorg: Col. 6 lines 3-8; Col. 12, lines 42-52; Col. 10 line 21-29; and Col. 13 lines 15-24);

a web switch component operable to receive the request from the router component and to deliver the content service to the subscriber terminal if the content service is chargeable(In Ginzboorg: Col. 6 lines 55-63); and

a processor component comprising control logic operable to determine a billing address for the subscriber terminal based on a subscriber identity that uniquely identifies the subscriber terminal (In Ginzboorg: Col. 5 lines 52-65 and Col. 7 lines 47-59), to monitor the delivery of the content service to the subscriber terminal (In Ginzboorg: Col. 7 lines 36-49), and to generate billing information based on the delivery of the content service (In Ginzboorg: Col. 7 lines 36-59).

Ginzboorg does not explicitly disclose the subscriber identity uniquely identifies the subscriber terminal to the access network. Ronen teaches the determination of a subscriber identity, that uniquely identifies the subscriber terminal to the access network, based on an IP address allocated to the subscriber identity and using it to determine the billing address (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51 - essentially the correlation of the ANI with the IP address can be used to determine the billing). The use of the access network subscriber identity allows for a casual user to make use of the billing system without an explicit pre-configuration/registration with the billing system (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Ginzboorg in view of Davis and modify it as indicated by Ronen such that the proxy system further comprises a processor component comprising control logic operable to determine a billing address for the subscriber terminal based on a subscriber identity that uniquely identifies the subscriber terminal to the access network, to monitor the delivery of the content service to the subscriber terminal, and to generate billing information based on the delivery of the content service. One would be motivated to have this, as there is need for providing a convenient method for billing of services through different providers, particularly for those using the services on a casual or infrequent basis (In Ronen: Col. 1 lines 21-38, Col. 1 line 65 - Col. 2 line 2, and Col. 2 lines 31-46).

41. With respect to Claim 30, Ginzboorg further teaches wherein the processor component further comprises control logic operable to transmit the billing information to

a billing system associated with the access network (In Ginzboorg: Col. 4 lines 14-18 and Col. 7 lines 36-59).

42. With respect to Claim 31, Ginzboorg further teaches wherein the processor component determines the billing address by matching the subscriber identity to a network address from the subscriber terminal (In Ronen: Col. 2 lines 31-46 and Col. 6 lines 30-51).

Response to Arguments

43. Applicant's arguments filed 09/14/2006 have been fully considered but they are not persuasive.

44. Applicant argues on page 9 of the remarks - "*In the system of Ginzboorg, it is the server of the service provider that is contacted first and then a subsequent billing entity is contacted afterwards.*"

a. Examiner's response - It is not clear as to what the applicant is attempting to distinguish in relation to the claim language. The examiner believes this is directed towards the limitation "*receiving in the proxy a content request for providing the content*". This limitation does not propose or exclude any necessary sequence of messages for the content request. The only requirement is that the proxy receives a content request. In Ginzboorg, the examiner considers the billing server to be the proxy server. Even though the service provider is contacted first, the billing server is forwarded the request for the content. As such, the billing server still receives a request. The request includes

both an identification of the content being request and the subscriber the content is to be provided to (Col. 5 lines 42 - Col. 6 line 2). The examiner considers this to be within the scope of the limitation "*receiving in the proxy a content request for providing the content*". Note also the use of the transitional phrase "comprises". This means the claim is open-ended and does not exclude additional or unrecited elements or method steps (MPEP 2111.03), such as the service provider receiving the request first.

45. Applicant argues on page 9 of the remarks - "*Additionally, the billing entity of Ginzboorg is consulted for billing information, whereas it is the proxy of Independent Claim 1 that executes this determination.*"

b. Examiner's response - The examiner interprets the billing entity of Ginzboorg to be the proxy.

46. Applicant argues on page 9 of the remarks - "*Finally, nowhere is there any disclosure in Ginzboorg for distinguishing free content versus chargeable content.*"

c. Examiner's response - Col. 6 lines 3-10 of Ginzboorg describes the billing server runs a process to determines how to charge the customer based on the requested content. This includes the use of billing parameters corresponding to the specific content and stored in a database (Col. 12, lines 42-53). Col. 10, lines 21-29, describes that these parameters can indicate that the content is free or subject to a category of charge. Col. 13 lines 15-24, also establishes that

some content may be free. Based on this evidence, it is clear that the functionality of the billing server of Ginzboorg is within the scope of *"determining, by the proxy, whether or not the content is chargeable content, wherein the determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free to end users connected to a network."*

47. Applicant argues on page 9 of the remarks - *"Additionally, neither Ginzboorg nor David offer: "providing the content corresponding to the content request under the control of the proxy from the content server to the subscriber terminal."*

d. Examiner's response - The claim language states *"providing the content corresponding to the content request under the control of the proxy from the content server to the subscriber terminal"*. Claim 1 does not state any limitations related to monitoring the subscriber's usage or any limitations that would specifically exclude upgrading or a modification to the subscriber's terminal. The subscriber does indeed monitor the content delivery for QoS purposes (See Col. 1 lines 16-24), but the examiner notes the use of the transitional phrase "comprising". As such, the claim is inclusive or open-ended and does not exclude additional, unrecited elements or method steps (MPEP 2111.03). As noted by applicant, Ginzboorg states, "the billing server asks the service provider to start sending the information to the customer." The examiner considers such a teaching to be within the scope of content delivery "under the control of a proxy"

as clearly the proxy is in control of when the content is being delivered.

Particularly, it is noted that Col. 6 lines 55-63 describes asking the service provider to deliver the content only after the billing server has authenticated the charging record. In other words, the content wont be delivered unless the billing server verifies the record and tells the service provider to provide the content once verification is affirmed. Clearly this is a form control. The examiner does not see how such a teaching would imply the server is not participating in the content delivery when it is responsible for making the delivery happen.

e. Overall, it seems applicant is asserting a much narrower scope for the language "under the control of the proxy". However, applicant has not provided sufficient evidence to support such a scope and the examiner believes the claim language has been given the broadest reasonable interpretation as dictated by MPEP 2111.

Conclusion

48. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Lazaro
November 1, 2006


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER